

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Transforming the 2.5 GHz Band	)	WT Docket No. 18-120
	)	

**COMMENTS OF SPRINT CORPORATION**

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**I. Introduction and Summary**

Sprint Corporation (“Sprint”) hereby comments on the Federal Communications Commission’s (“Commission’s”) Notice of Proposed Rulemaking (“*NPRM*”) regarding new rules and policies to improve the 2.5 GHz band.<sup>1</sup> The Commission should establish a regulatory framework that that will enable the 2.5 GHz band to realize its full potential to deliver broadband and 5G services. In short, the Commission should make the regulatory framework for the Educational Broadband Service (“EBS”) portion of the 2.5 GHz band more like the framework for other commercial wireless bands. Sprint fully supports the Commission’s goals of promoting competition and enhancing regulatory parity between the entire 2.5 GHz band and other commercial bands. Parity will enable 2.5 GHz EBS licensees and operators relying on this spectrum to maximize the use of the 2.5 GHz band to provide enhanced broadband wireless services.

To accomplish these goals, the Commission should “rationalize” existing site-based EBS licenses by extending their licensed service areas to county borders. The Commission should assign the remaining EBS “white space” spectrum through a 2.5 GHz overlay auction with

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<sup>1</sup> *Transforming the 2.5 GHz Band*, WT Docket No. 18-120, Notice of Proposed Rulemaking, FCC 18-59 (rel. May 10, 2018) (“*NPRM*”).

traditionally sized geographic-area licenses, such as Basic Trading Areas (“BTAs”) or Partial Economic Areas (“PEAs”). The Commission should also establish greater flexibility for existing EBS licenses and apply its general secondary market rules to EBS spectrum. Finally, the Commission should not undertake an incentive auction in the 2.5 GHz band. An incentive auction is infeasible from a commercial or regulatory perspective given that most EBS-licensed spectrum is subject to long-term leases that would prevent licensee participation.

## **II. Sprint’s Commercial Wireless Operations at 2.5 GHz and the Importance of Continued Access to 2.5 GHz EBS Spectrum**

Sprint is the largest EBS spectrum lessee in the United States. Sprint is also the largest holder of licenses in the adjacent Broadband Radio Service (“BRS”) band. Following its transactions with Clearwire and SoftBank in 2013,<sup>2</sup> Sprint repurposed the 2.5 GHz spectrum from the Clearwire WiMax network. This 2.5 GHz spectrum now serves as the backbone of Sprint’s tri-band 3G/4G LTE network (using 800 MHz, 1.9 GHz, and 2.5 GHz). Following the Commission’s 2.5 GHz transition last decade, from a band plan supporting high-power video operations to the current BRS/EBS band plan, Sprint is successfully using its licensed and leased 2.5 GHz spectrum to provide high-speed, high-capacity data services through thousands of macro cell sites, enhanced small cells called “mini macros,” strand mounts (*i.e.*, small cells attached to cable company fiber strands), and “MagicBox” femtocells designed for use inside customer premises. Sprint’s 3G/4G LTE Network today covers 302 million POPs and serves over 54 million customers.

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<sup>2</sup> See *Applications of SOFTBANK CORP., Starburst II, Inc., Sprint Nextel Corporation, and Clearwire Corporation for Consent to Transfer Control of Licenses and Authorizations, Petitions for Reconsideration of Applications of Clearwire Corporation for Pro Forma Transfer of Control*, Memorandum Opinion and Order, Declaratory Ruling, and Order on Reconsideration, 28 FCC Rcd 9642 (2013).

Sprint's 2.5 GHz spectrum is the source of most of the 4G LTE capacity in Sprint's existing commercial wireless network. Sprint is densifying and optimizing its 4G LTE network, relying on 2.5 GHz spectrum to provide broadband wireless data services to millions of customers, including its educational partners from whom it leases 2.5 GHz spectrum. The 2.5 GHz band can support significant capacity and throughput where deployed, including two-channel and three-channel carrier aggregation.<sup>3</sup> In fact, nearly every Sprint 2.5 GHz site uses either 40 MHz of spectrum with two-channel carrier aggregation or 60 MHz of spectrum with three-channel carrier aggregation. Sprint utilizes over 1000 BRS licenses (both site-based and wide-area geographic auctioned licenses) and leases approximately 1500 EBS licenses (over 67% of all EBS licenses at 2.5 GHz) to provide its service to customers.

Sprint's 2.5 GHz spectrum assets will also serve as its prime spectrum band as it develops and deploys 5G services. Sprint expects to begin providing 5G commercial services and devices during the first half of 2019 in nine of its top markets.<sup>4</sup>

In the instant proceeding, the Commission should examine ways to enhance 2.5 GHz broadband deployment and make additional 2.5 GHz spectrum available for licensing and operational use. As discussed further below, the Commission's proposals to rationalize existing

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<sup>3</sup> Carrier aggregation involves the combination of channels to create a broader path for the transmission of data. On Sprint's network, two-channel carrier aggregation involves aggregating two 20 MHz channels of 2.5 GHz spectrum for a total channel bandwidth of 40 MHz, while three-channel carrier aggregation involves aggregating three 20 MHz channels of 2.5 GHz spectrum for a total channel bandwidth of 60 MHz.

<sup>4</sup> Sprint's 5G services will initially be rolled out in nine metropolitan areas: Atlanta – Athens, Chicago, Dallas-Fort Worth, Houston, Kansas City, Los Angeles, New York City, Phoenix, and Washington D.C. Sprint's proposed merger with T-Mobile will lead to a nationwide, accelerated 5G deployment. *See* Description of Transaction, Public Interest Statement, and Related Demonstrations, appended as Exhibit B to Joint Application of Sprint Corporation and T-Mobile US, Inc., for Consent to Transfer Control of International and Domestic Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, WT Docket No. 18-197, at 28-39 (June 18, 2018).

EBS licenses and then license available EBS “white space” promise to unlock the full potential of the 2.5 GHz band for both 4G expansion and 5G development.

### **III. The Commission Should Rationalize Existing EBS License Areas to County Boundaries**

As the *NPRM* recognizes, virtually all of the EBS license areas today are misshapen and irregularly configured.<sup>5</sup> These licenses do not follow traditional geographic boundaries because they were derived from 35-mile-radius circular areas located around the originally licensed transmitter sites.<sup>6</sup> Additional spectrum planning and coordination is required to use the 2.5 GHz EBS spectrum given the nature of these licenses, their authorized areas, and the sometimes sizeable gaps in service areas, known as “white spaces.”

Sprint urges the Commission to foster more efficient and intensive operations in this spectrum by making the EBS portion of the band more like other commercial wireless spectrum rather than accentuating the obstacles to maximizing the use of the 2.5 GHz band. By encouraging full and equitable competition between commercial operators in the 2.5 GHz band and other bands, the Commission will promote the development of innovative services and equipment across all commercial spectrum.

Sprint supports a county-based approach to EBS license rationalization and opposes the Commission’s alternative of expanding existing EBS license areas only to the boundaries of overlapping census tracts.<sup>7</sup> Expanding EBS licensees’ geographic service areas (“GSAs”) only to overlapping census-tract borders would exacerbate the irregular nature of these licenses, creating additional white space anomalies in dense urban and suburban areas. For instance, since

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<sup>5</sup> *NPRM* ¶¶ 5, 9.

<sup>6</sup> *Id.* ¶ 5.

<sup>7</sup> *See id.* ¶ 17.

some census tracts are located within census tracts, a census-tract-border approach could result in “donut holes” within EBS license areas.

The Commission should extend existing EBS license areas to the borders of overlapping counties instead of adopting its proposed census-tract approach.<sup>8</sup> The major stakeholders at 2.5 GHz – Sprint, the Catholic Television Network, the National Educational Broadband Service Association, Hispanic Instructional Television Network, and the Wireless Communications Association International – have long supported a county-based approach.<sup>9</sup> County-based expansion can effectively fill many of the operational gaps resulting from the irregular license areas of legacy EBS GSAs. With this approach, the Commission can also avoid the elevated interference risk at license boundaries associated with census-tract licensing.

Sprint suggests that the Commission apply a minimum coverage overlap threshold so that truly *de minimis* overlaps do not result in an expansion. Specifically, if an EBS licensee’s GSA encompasses 10% or more of the geographic area of an overlapping county, its license area should be expanded to include the rest of that county.<sup>10</sup> This expansion should occur automatically, without licensees having to file applications or notify the Commission, consistent with the Commission’s proposal.<sup>11</sup> As part of this county-based expansion, an EBS licensee

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<sup>8</sup> See *id.*

<sup>9</sup> See *id.* ¶ 8; see also Letter from Todd D. Gray, Counsel for National EBS Association, *et al.*, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 03-66 (June 6, 2014).

<sup>10</sup> *NPRM* ¶ 18. Thus, there would be no county expansion where there were *only de minimis* overlaps. The Commission’s overlap threshold should be based on geography rather than population. Sprint believes that there is no reliable source of population data and that a population-based threshold could not be implemented consistently across different areas.

<sup>11</sup> *Id.* ¶ 11.

should be authorized for additional geographic area on all EBS channels covered by its existing license.<sup>12</sup>

This approach will result in ample spectrum for future licensing or an auction of EBS white space spectrum. According to Sprint's calculations, using a 10% minimum threshold on an EBS per-channel basis, about 45% of the nation's 3200 counties would be rationalized, and 31.5% of the nation's counties would remain available for EBS white space licensing.<sup>13</sup> By contrast, a threshold greater than 10% would have significant drawbacks. A higher threshold would decrease the number of counties that would be rationalized, perpetuate the irregularly-shaped GSA licensed area framework across more areas, and result in greater challenges for future licensing of the remaining EBS white space.

Easy-to-implement county-based rationalization will mean additional spectrum and operational territories can be put into the hands of EBS licensees quickly. With county-based rationalization, existing EBS licensees and their commercial lessee partners (like Sprint and other commercial regional operators) will be able to bring this spectrum into robust near-term use. A county-based rationalization will also yield more regularized EBS license areas than a census-tract approach, reducing existing gaps in EBS license coverage and immediately producing license areas that are similar to other commercial mobile bands.

In addition, Sprint's proposed county-based license rationalization (with a 10% minimum overlap threshold) is preferable to the Commission's proposal, which in effect represents a two-

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<sup>12</sup> If a licensee holds fewer than four EBS channels (for example, A1 and A2 only), then its license should be expanded only on those channels.

<sup>13</sup> Sprint's data indicate that 23.5% of the nation's counties are fully covered by existing EBS licenses and their licensed areas. They would not, therefore, be eligible for an expansion or rationalization. These "full coverage" counties account for approximately 282 million of 327 million POPS nationwide.



step EBS rationalization and expansion to county borders. The Commission suggests in the *NPRM* that (i) existing EBS licenses could expand automatically to overlapping census-tract borders, and (ii) there could be a subsequent filing window that would enable incumbent EBS licensees to apply to expand their licenses to the borders of overlapping counties.<sup>14</sup> This unnecessary two-step approach would be administratively burdensome and result in a more prolonged process than Sprint’s proposed streamlined county-based proposal.

A county-based approach is also a better solution than a census-tract approach when multiple licensees have overlaps. In the event two or more EBS licensees have GSAs that overlap a particular county by more than 10%, the Commission’s approach should be to split that county between these EBS licensees.<sup>15</sup> Given that there are far fewer U.S. counties than census tracts (approximately 3,000 counties compared to about 74,000 census tracts), these overlap scenarios will occur much less frequently under a county-based approach. The “split the football” process should be manageable with a county-based approach and, as it did during and after the 2.5 GHz transition, fairly and effectively allocate rights between different EBS licensees.<sup>16</sup>

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<sup>14</sup> *NPRM* ¶¶ 11 (proposing to automatically “rationalize the GSAs of existing EBS licensees . . . to a defined geographic area, namely, the sum of census tracts that are covered by . . . a licensee’s existing GSA), 32 (seeking comment on whether the Commission should “open a [filing] window for existing EBS licensees”).

<sup>15</sup> *See id.* ¶ 17. Splits should occur by drawing straight lines between the reference points of participating incumbent GSAs (without crossing any other incumbent GSAs) and then drawing perpendicular lines to those lines located half way between the reference points which run to county boundaries or to the intersection with other such perpendicular lines, whichever occurs first.

<sup>16</sup> In January 2005, many EBS licensees had their 35-mile radius circles reduced when the Commission converted their Protected Service Areas (“PSAs”) to GSAs through the “splitting-the-football” process. *Id.* n.11. As the Commission has explained, “splitting-the-football” refers to a process initially used informally by licensees in the Multichannel Distribution Service (“MDS”) and the Instructional Television Fixed Service (“ITFS”) industry to manage

Finally, as it rationalizes EBS spectrum, the Commission should maintain existing EBS licenses as single, unified authorizations rather than break up licensees' GSAs into a collection of separate census-tract area licenses.<sup>17</sup> Whereas geographically limited census-tract licenses would result in regulatory disparities between 2.5 GHz licenses and other commercial mobile licenses, county-based licensing is a sound, balanced policy that will enhance regulatory parity and promote increased use of 2.5 GHz almost immediately.

#### **IV. The Commission Should Establish More Flexible Rules For EBS Licenses and Apply Its General Secondary Market Rules to EBS Spectrum**

The *NPRM* proposed granting EBS licensees additional flexibility to promote more intensive and efficient spectrum use.<sup>18</sup> To that end, Sprint supports elimination of the Commission's limits on the length of EBS lease terms.<sup>19</sup> The Commission's general secondary market rules for commercial wireless services – including its spectrum leasing framework – should apply to all EBS license holders. EBS licensees should have the ability to enter into lease arrangements of indefinite length. In addition, EBS lessees should no longer be required to give licensees an opportunity to revisit their lease terms at years 15, 20, and 25, either to review the status of their educational use requirements or for any other reason.

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interference issues in GSAs that overlap. *See* 47 C.F.R. § 27.1206(a) (“The area for incumbent site-based licensees that is bounded by a circle having a 35 mile radius and centered at the station’s reference coordinates, which was the previous PSA entitled to incumbent licensees prior to January 10, 2005, and is bounded by the chord(s) drawn between intersection points of the licensee’s previous 35-mile PSA and those of respective adjacent market, co-channel licensees.”).

<sup>17</sup> *See NPRM* ¶ 13.

<sup>18</sup> *See id.* ¶ 19.

<sup>19</sup> *Id.* ¶ 23.

The *NPRM* proposes providing EBS licensees with the flexibility to assign or transfer control of their licenses to entities that are not EBS-eligible.<sup>20</sup> By eliminating the EBS eligibility restrictions contained in Section 27.1201 of its rules,<sup>21</sup> the Commission would permit (but not require) EBS licensees to assign or transfer control of EBS spectrum to non-educational entities.<sup>22</sup> Whether an EBS licensee ultimately assigns or transfers an EBS license to a non-educational party should be that licensee’s decision, not the Commission’s.<sup>23</sup> EBS licensees are best able to determine if they should use their licensed spectrum themselves, enable a commercial lessee to use that spectrum, or divest that spectrum to a non-educational party.<sup>24</sup> Notably, the Commission has long recognized “the clear public interest benefits in a license or authorization holder being able to assign or transfer control of its license or authorization freely.”<sup>25</sup> The Commission adopted a similar rule change in the past when it allowed Business/Industrial Land Transportation (“B/ILT”) licensees in the 800 MHz band to assign or

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<sup>20</sup> *Id.* ¶ 20.

<sup>21</sup> 47 C.F.R. § 27.1201.

<sup>22</sup> The flexibility to assign or transfer control of EBS spectrum to non-educational entities should extend to EBS licensees that have obtained their licenses through the Commission’s waiver processes (following the Commission’s 1993 EBS application filing freeze).

<sup>23</sup> Even if an EBS licensee decides to sell its license to its current commercial lessee, it may choose to maintain its customer relationship with that commercial operator (including service credits, provisioned devices, and other elements of service). Again, the precise terms of that continued relationship would result from negotiation between the EBS licensee and its commercial lessee.

<sup>24</sup> The Commission’s decision to give EBS licensees the flexibility to assign or transfer licenses to entities that are not EBS-eligible should not abrogate existing leases. Existing leases should remain in effect according to their terms.

<sup>25</sup> *Joint Application of W. Mansfield Jennings Limited Partnership and Hargray Communications Group, Inc., for Consent to the Transfer of Control of ComSouth Corporation Pursuant to Section 214 of the Communications Act of 1934*, WC Docket No. 18-52, Memorandum Opinion and Order, FCC 18-62, ¶ 15 (rel. May 11, 2018).

transfer their authorizations to previously non-eligible entities<sup>26</sup> and in 2004 when it gave the same flexibility to B/ILT licensees in the 900 MHz band.<sup>27</sup> Should the Commission provide this flexibility, Sprint suggests that the implementation or effective date of this rule change not take effect until one year after the Commission rationalizes existing EBS incumbent licensees through their initial expansion. This reasonably short period after this initial expansion occurs will enable EBS licensees and commercial operators to better understand the 2.5 GHz licensing environment in any given geographic area, avoid confusion and provide greater certainty for all stakeholders.

## **V. The Commission Should Auction Remaining EBS White Space Spectrum After County-Based Rationalization**

Once the Commission has rationalized existing EBS spectrum by expanding EBS licenses to overlapping county borders as described above, the Commission should conduct an overlay auction of the remaining EBS white space spectrum as soon as feasible.<sup>28</sup> An overlay auction will assign this spectrum to the parties who place the greatest value on those frequencies and will put the spectrum to its highest and best use. The Commission should forego the *NPRM*'s proposed local priority filing windows for existing EBS licensees and other educational entities, however. The Commission should not restrict eligibility and should permit participation

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<sup>26</sup> See *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 22709, ¶¶ 7, 108-119 (2000).

<sup>27</sup> See *Improving Public Safety Communications in the 800 MHz Band, et al.*, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969, ¶¶ 335-337 (2004) (amending the Commission's rules to allow 900 MHz B/ILT licensees to convert their Private Land Mobile Radio ("PLMR") authorizations to CMRS authorizations or assign their authorizations to others for CMRS use); see also 47 C.F.R. § 90.621(f).

<sup>28</sup> *NPRM* ¶ 23. Any BRS BTA licenses that were previously unclaimed at auction or returned to the Commission should also be part of a 2.5 GHz overlay auction. Sprint has identified seventeen BTA licenses that could also be auctioned.

by non-educational parties in the overlay auction. The Commission should also conduct the auction of EBS white space spectrum in conformity with the general competitive bidding provisions contained in Part 1 of its rules.

To enhance regulatory parity, the Commission should offer large-area licenses to participating bidders.<sup>29</sup> Sprint supports either PEA or BTA-based licensing for these new overlay 2.5 GHz licenses. BTA licensing in particular has the benefit of consistency with the existing BRS licensing framework. The Commission should under no circumstance license this EBS white space spectrum on a census-tract basis because such a small-area licensing approach is contrary both to the Commission's licensing approach in other commercial bands and to the commercial mobile service model developing successfully at 2.5 GHz.

The Commission should also incorporate substantial channel blocks into these new EBS overlay licenses. By licensing the EBS white space spectrum in large blocks, the Commission will make it easier for commercial mobile operators, including Sprint, to serve the public by aggregating spectrum and deploying 4G and 5G services. Specifically, Sprint proposes that the Commission create three new overlay licenses in this spectrum as follows:

- Block 1: A1-A4 and B1-B4
- Block 2: C1-C4 and D1-D4
- Block 3: G1-G4

The Commission's 1997 overlay auction of Specialized Mobile Radio ("SMR") licenses at 800 MHz represents a sound model for an overlay auction involving EBS spectrum.<sup>30</sup> As with

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<sup>29</sup> *Id.* ¶ 59.

<sup>30</sup> *See Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band; Implementation of Sections 3(n) and 322 of the Communications Act Regulatory Treatment of Mobile Services; Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995) ("800

that SMR spectrum, the new 2.5 GHz overlay licensees should be able to “fill in” their geographic area licenses by buying out or relocating EBS incumbents.<sup>31</sup>

Expansion of licensees’ GSAs and an overlay auction will enhance regulatory parity, put available spectrum to vigorous use, and enhance spectrum efficiency.

## **VI. The Commission Should Apply Its Existing BRS Performance Requirements to New 2.5 GHz Overlay Licenses**

Sprint supports applying the unified license renewal framework the Commission adopted in 2017 to 2.5 GHz licenses assigned through an overlay auction.<sup>32</sup> Sprint also supports applying to new 2.5 GHz licenses the substantial service requirements applied to BRS licenses issued after November 6, 2009.<sup>33</sup> To demonstrate substantial service, these BRS licensees must meet an appropriately rigorous performance benchmark of 30% population coverage in their license area within four years of authorization.<sup>34</sup> For new overlay 2.5 GHz licenses, Sprint supports using this same benchmark.

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*MHz SMR Flexibility Order*”); *Auction of 800 MHz Specialized Mobile Radio Service Licenses, Auction Notice and Filing Requirements for 525 Licenses in the Upper 200 Channels Scheduled for October 28, 1997*, Public Notice, 13 FCC Rcd 1875 (1997); *see also Amendment of Parts 21 and 74 of the Commission’s Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, Report and Order, 10 FCC Rcd 9589 (1995) (establishing a licensing plan for new overlay BTA authorizations in the 2.5 GHz band).

<sup>31</sup> *800 MHz SMR Flexibility Order* ¶ 3 (giving EA licensees the right to use any spectrum within the EA block that is recovered by the Commission from an incumbent SMR licensee in the event of termination of the incumbent’s license and granting EA licensees the right to relocate incumbents within their spectrum blocks).

<sup>32</sup> *See Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 8874 (2017).

<sup>33</sup> 47 C.F.R. § 27.14(o).

<sup>34</sup> 47 C.F.R. § 27.14(o)(1)(ii).

The Commission should not adopt the performance requirements proposed in the *NPRM*.<sup>35</sup> A final construction benchmark of 80% population coverage is overly stringent and more demanding than the performance requirements applied today in any other commercial wireless band.<sup>36</sup> It would be inequitable and contrary to regulatory parity to subject new 2.5 GHz licensees to more rigorous build-out requirements than imposed elsewhere. New 2.5 GHz EBS overlay licensees would find it extremely difficult to provide 80% population coverage given that much of the existing EBS white space spectrum is rural. This build-out requirement could deter participation in a 2.5 GHz-overlay auction and frustrate commercial development of this band.

Finally, the Commission should not impose separate build-out requirements in the expanded areas of EBS licenses following completion of the EBS rationalization procedures.<sup>37</sup> Applying a separate performance requirement in such areas would create unnecessary regulatory complexity at 2.5 GHz.

## **VII. The Commission Should Not Conduct an Incentive Auction in the 2.5 GHz Band**

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<sup>35</sup> *NPRM* ¶ 54.

<sup>36</sup> *See, e.g.*, 47 C.F.R. §§ 27.14(h) (requiring Upper 700 MHz C block licensees to provide signal coverage to 75% of the population within their license areas by the end of their license term), 27.14(p)(1) (requiring WCS licensees at 2.3 GHz to provide signal coverage to 75% of the population within their license areas by September 2019), 27.14(q)(2) (requiring AWS-4 licensees to provide signal coverage to 70% of the population within their license areas within seven years of licensing (those licensees' final milestone)), 27.14(s)(2) (requiring AWS-3 licensees to provide signal coverage to 75% of the population within their license areas within twelve years of licensing (those licensees' final milestone)), 27.14(t)(2) (requiring 600 MHz licensees to provide signal coverage to 75% of the population within their license areas within twelve years of licensing (those licensees' final milestone)).

<sup>37</sup> *See NPRM* ¶ 54.

Sprint strongly opposes an incentive auction in the 2.5 GHz band.<sup>38</sup> An incentive auction at 2.5 GHz is not feasible from a commercial or regulatory perspective given that most existing EBS spectrum is subject to long-term leases that would legally prohibit licensee participation in the reverse auction. Sprint in particular has long-term lease arrangements involving approximately 1600 call signs in the 2.5 GHz band, which covers over 60% of the current EBS licenses. These licensees cannot return this spectrum to the Commission without implicating Sprint's contractual rights. Notably, EBS leases typically include provisions such as rights of first refusal on the sale of the license and the lease of the spectrum following expiration of the lease and exclusivity terms, which preclude any negotiations regarding alternative spectrum uses.

It is essential to the integrity of the Commission's secondary market framework that parties honor the terms of their spectrum leases, which are designed to protect operators' investments in this band. The Commission has consistently encouraged these types of secondary market arrangements as a means of promoting intense spectrum usage.<sup>39</sup> If the Commission changed course and "encourage[ed] incumbents to relinquish voluntarily some or all of their

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<sup>38</sup> See *id.* ¶ 61.

<sup>39</sup> See, e.g., *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC 14165, ¶ 179 (2004) (in extending secondary market rules and policies to the BRS and EBS bands, stating that "there is no reason to deprive licensees in the BRS/EBS spectrum of the benefits of these rules and policies," which advance the Commission's "efforts to encourage the development of broadband services for all Americans, promote increased facilities-based competition among service providers, enhance economic opportunities and access for the provision of communications services, and enable development of additional and innovative services in rural areas.").



spectrum usage rights,”<sup>40</sup> that reversal would be contrary to its policy promoting spectrum leasing and secondary market mechanisms.

### **VIII. Conclusion**

For all of the aforementioned reasons, Sprint urges the Commission to take the actions in this proceeding described in these Comments.

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<sup>40</sup> *NPRM* ¶ 61.